

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RANDY COLON, HUGH SMITH, EDWARD VAIANA,  
ELVI RODRIGUEZ, and TYRON MAYNOR,

Plaintiffs,

-against-

MEMORANDUM & ORDER  
12-CV-4466 (JS) (AYS)

COUNTY OF NASSAU, MICHAEL SPOSATO,  
Sheriff, ARMOR CORRECTIONAL HEALTH,  
INC., DR. KAY, MD, ARMOR CORR. HEALTH,  
DR. VINCENT MANETTI, M.D., ARMOR CORR.  
HEALTH, INC., NURSING ADMINISTRATOR  
HAILEY, ARMOR CORR. HEALTH, INC.,  
and DR. SANTARELLI DDS, ARMOR CORR.  
HEALTH, INC.,

Defendants.

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APPEARANCES

For Plaintiffs:

Randy Colon                   Randy Colon, pro se  
                                  No. 15-A-1535  
                                  Great Meadow Correctional Facility  
                                  P.O. Box 51  
                                  Comstock, NY 12821

Hugh Smith                   Hugh Smith, pro se  
                                  1322 Bedford Avenue  
                                  Brooklyn, NY 11216

Edward Vaiana               No appearance

Elvi Rodriguez               No appearance

Tyron Manor                 No appearance

For Defendants:             Pablo A. Fernandez, Esq.  
                                  Nassau County Attorney's Office  
                                  One West Street  
                                  Mineola, NY 11501

SEYBERT, District Judge:

Pending before the Court is Magistrate Judge Steven I. Locke's Report and Recommendation ("R&R"),<sup>1</sup> recommending that the claims asserted by plaintiffs Edward Vaiana ("Vaiana"), Elvi Rodriguez ("Rodriguez"), and Tyron Maynor ("Maynor") be dismissed without prejudice for failure to prosecute. (R&R Docket Entry 74.) For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

On September 6, 2012, Plaintiffs, former and current inmates incarcerated at the Nassau County Correctional Center, commenced this action, asserting claims arising out of Defendants' alleged failure to provide adequate medical care. (See generally Compl.) On March 9, 2015, Judge Locke sua sponte issued his R&R recommending that Vaina, Rodriguez, and Maynor's claims be dismissed without prejudice for failure to prosecute. (R&R at 3-4.) Judge Locke notes that mail sent by the Court to these plaintiffs has been returned as undeliverable, and these

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<sup>1</sup> The Court notes that subsequent to the issuance of Judge Locke's R&R, this matter was reassigned to Judge Anne Y. Shields.

plaintiffs have failed to provide the Court with updated contact information. (R&R at 1-2.)

#### DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted). Objections were due within fourteen days of service of the R&R.

The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

#### CONCLUSION

Judge Locke's R&R (Docket Entry 74) is ADOPTED in its entirety and the claims of plaintiffs Edward Vaina, Elvi Rodriguez, and Tyron Maynor are DISMISSED WITHOUT PREJUDICE. The Clerk of the Court is directed to TERMINATE Vaina, Rodriguez, and Maynor as plaintiffs in this action. The Clerk of the Court is

further directed to mail a copy of this Memorandum and Order to  
pro se Plaintiffs at their last known addresses.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: October 6, 2016  
Central Islip, New York